



CITY OF TUCSON

ZONING
EXAMINER'S
OFFICE

September 4, 2015

ZONING EXAMINER'S DECISION

Special Exception Land Use Case: SE-15-32 Verizon – Speedway Boulevard

Applicant/Agent: Shirley Crowder
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Owner: Cube Smart / YSI XXLP
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Engineer/Architect: Matthew Young
Young Design Group
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Special Exception Land Use Request

This is a request for approval of a wireless communication tower with twelve antenna panels concealed within an artificial palm tree (monopalm), 55 feet in height with associated ground equipment, including a back-up diesel generator. The special exception site is located approximately 200 feet south of Speedway Boulevard and 450 feet west of Kolb Road.

Public Hearing

On August 27, 2015 a public hearing was held on this special exception land use request in City Hall, 255 West Alameda, Tucson, Arizona, pursuant to Sections 3.4.3 of the *Unified Development Code*.

Appeal

The Zoning Examiner's decision may be appealed to Mayor and Council pursuant to 3.4.3.J of the *Unified Development Code*. An appeal of the Zoning Examiner's decision must be filed with the City Clerk, 255 West Alameda Tucson, Arizona, 85701 by a party of record within fourteen (14) days of the date of the Zoning Examiner's decision.

Findings of Fact

This is a request by Shirley Crowder of Centerline Solutions, on behalf of Verizon Wireless, to allow a wireless communication facility (WCF) as a special exception land use in the C-2 zone. The special exception site is located approximately 200 feet south of Speedway Boulevard and 450 feet west of Kolb Road. The preliminary development plan (PDP) proposes a wireless communication tower concealed within an artificial palm tree, 55 feet in height with associated ground equipment, including a back-up diesel generator, to be enclosed within an existing mini-storage unit. The WCF will be placed within a 480 square foot lease area near the north central portion of the 2.44 acre site.

The special exception site is currently developed as a self-storage facility. Immediately to the north and east are commercial retail and auto service land uses, zoned C-2. Farther to the north, across Speedway Boulevard are commercial retail uses, zoned C-1, and single family residential use, zoned R-3. Farther to the east, across Kolb Road are retail commercial uses in the PAD-3 zone. To the west across Green Hills Avenue are single-family residential uses zoned R-1 and R-2, and to the south across an alley are single-family residential uses zoned R-1. The nearest residential parcels are located approximately 230 feet west and east of the proposed WCF.

At the public hearing a nearby resident, Jeanine Domicone, protested the proposed wireless communication facility and testified that a variety of scientific studies have been conducted suggesting a link between communication towers and adverse health impacts. The Telecommunications Act of 1996 creates a non-rebuttable presumption that towers and their associated antennas that operate within their legally authorized spectrum or limit are safe. This provision was created, in part, to prevent and preempt local zoning authority, such as the City of Tucson Zoning Examiner, from denying tower applications based on health reasons. Ms. Domicone's testimony was permitted and made a part of the hearing record. This local zoning authority interprets the Federal preemption to bind his decision-making, not to silence citizens from civil discourse or prevent them from a meaningful opportunity to express concerns about relevant local zoning decisions in a public hearing. In adherence to the Telecommunications Act of 1996 and subsequent revisions, the content of Ms. Domicone's testimony regarding health impacts is not considered here as a basis for this decision.

The project site is located approximately 200 feet south of Speedway Boulevard at the north end of an existing self-storage building. An eight foot wide access easement will be provided to the WCF from Green Hills Avenue, a local street which runs south from Speedway Boulevard one block west of Kolb Road. The *Major Streets and Routes Plan* designates Speedway Boulevard as an arterial street with a right-of-way width of 120 feet. Kolb Road is a Gateway arterial street with a right-of-way width of 150 feet. No new road improvements or additional circulation are proposed as part of the project. The Pima Association of Governments - Transportation Planning Division (PAG-TPD) states that no additional vehicle trips per day will be generated by the proposal.

Land use policy direction for this area is provided by *Plan Tucson* and the *Sewell/Hudlow Neighborhood Plan (SHNP)*. According to the *SHNP* nonresidential uses should be located along designated major streets as shown on Land Use Development Maps. New nonresidential uses should be carefully integrated with surrounding uses by providing common access points and parking, and common amenities such as landscaping and walls.

Plan Tucson policies protect established residential neighborhoods by supporting compatible development, including non-residential uses, where the scale and intensity of use is compatible with adjacent uses. The special exception site is located within an "existing neighborhood" area identified on the Future Grown Scenario Map in *Plan Tucson*. The Plan supports existing neighborhoods and commercial districts to encourage new services and amenities that contribute further to neighborhood stability. Specific direction is provided in Chapter 3 - The Built Environment under Guidelines LT28.1.2 and LT28.1.3. These policies support wireless communication facilities when they are installed and maintained to minimize visual impact and preserve views, and when their design improves the appearance of above ground utilities and structures. The applicant states that the proposed wireless communication facility will help improve telecommunication services in the surrounding neighborhoods.

The proposed monopalm will include twelve antennas (3 sectors with 4 antennas per sector) concealed within an artificial palm tree, 55 feet in height. The WCF will be located near the north edge of the parcel, and has been designed with the ground equipment placed within an existing enclosed self-storage unit at the north end of an existing storage building, totally screened from view. The antennas will be concealed within the fronds of the tree, and bark cladding will be placed on the pole to authenticate the appearance of the palm trunk.

The self-storage facility is entirely paved and developed with storage structures. It would be difficult to provide visual context for the proposed monopalm in the form of live palm trees planted within the self-storage facility. A few smaller live palm trees of between approximately 10 and 20 feet in height exist adjacent to the subject parcel near its west and south edges. While these live palms are fairly short and not in close proximity to the WCF site, they do provide some degree of visual context in the foreground when viewing the WCF site from homes to the south and west.

In terms of wireless communication facilities, a stealth application is one that disguises the appearance of the pole and antennas to look like an element of the built or natural landscape, which could typically occur at the chosen location. A stealth application should be as close as possible in scale and appearance to the object it is disguised as, with no obvious unnatural elements. The success of a stealth application is dependent on the ability of the design and construction of the cellular site to fit into its surroundings to such a degree that it is not noticeable. Scale and proportion, site design, color, and materials, are particularly important in stealth applications insofar as they contribute, or do not contribute, to the ability of the facility to be as unobtrusive as possible. To ensure a successful stealth monopalm at this location, the following standards are recommended:

- The monopalm shall not exceed 55 feet in height at top of fronds;
- The monopalm shall include crown and faux pineapple;
- The pole shall be covered with cladding (bark) from the pineapple to bottom of pole, and painted to resemble a live palm;
- There shall be a minimum of 55 fronds ranging in length from seven (7) feet to ten (10) feet and placed to extend above, below and between antenna panels;
- Replacement of lost/damaged fronts to be completed within ten working days of observation and fronds shall be colored to match live fronds as closely as possible;
- All cables shall be run inside the pole, with no foot pegs or other visible appurtenances;
- All wire ports shall be concealed behind the antennas and all equipment shall be mounted behind the antenna panels;
- Antenna panels shall be painted with a light/shade pattern to better camouflage them;
- Ground equipment to be screened

The applicant's proposal requires approval as a Zoning Examiner Special Exception Procedure and must meet the Use-Specific Standards of UDC Sections 4.9.13.0 and 4.9.4.1.2, .3, and .6.b. The Zoning Examiner may forward the request to the Design Review Board for design review and recommendation.

UDC 4.9.1.6.b:

1. The antennas are mounted on a new tower and the tower and antennas are concealed or disguised, or the antennas are collocated on an existing structure.
2. The tower and antennas are architecturally and/or environmentally compatible with the surrounding structure(s) and general area.
3. The new tower is setback at least two times the height of the structure from the boundary of any property zoned residential or office.
4. The tower and antennas are eighty (80) feet or less in height.

Conclusion

Given the compliance of the proposed project with *Plan Tucson*, the *Sewell/Hudlow Neighborhood Plan* and the applicable provisions of the *Unified Development Code*, this request is appropriate.

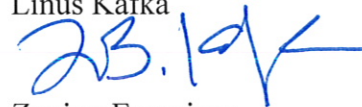
Decision

This special exception land use request for a 50-foot monopalm cellular communications facility with associated equipment is hereby approved, subject to the following conditions:

1. A development package/site plan in substantial compliance with the preliminary development plan dated June 15, 2015, is to be submitted and approved in accordance with the *Administrative Manual*, Section 2-06.
2. The property owner shall execute a waiver of potential claims under A.R.S. Sec. 12-1134 for this zoning amendment as permitted by A.R.S. Sec. 12-1134 (I) in the form approved by the City Attorney and titled "Agreement to Waive Any Claims Against the City for Special Exception Land Use."
3. Historic or prehistoric features or artifacts discovered during future ground disturbing activities should be reported to the City of Tucson Archaeologist. Pursuant to A.R.S. 41-865 the discovery of human remains and associated objects found on private lands in Arizona must be reported to the Director of Arizona State Museum.
4. Any relocation, modification, etc., of existing utilities and/or public improvements necessitated by the proposed development shall be at no expense to the public.
5. Five years are allowed from the date of initial authorization to implement and effectuate all Code requirements and conditions of the special exception land use.
6. A copy of the Special Exception decision letter shall be included with the site plan at the time of permit application submittal.
7. The wireless communication monopalm, including attachments such as antenna panels and palm fronds, shall not exceed fifty-five (55) feet in height from grade elevation.
8. A maximum of twelve (12) antenna panels shall be installed and painted with a light/shade pattern to blend and minimize visual impacts.
9. The monopalm shall include crown and pineapple.
10. The pole shall be covered with cladding (bark) from the pineapple to bottom of pole, and painted to resemble a live palm.
11. There shall be a minimum of 55 fronds ranging in length from seven (7) feet to ten (10) feet and placed to extend above, below and between antenna panels.
12. Verizon shall routinely monitor the facility and repair/replace any artificial fronds that may become worn or damaged through time.
13. Replacement of lost/damaged fronds to be completed within ten working days of observation and fronds shall be colored to match live fronds as closely as possible.
14. All cables shall be run inside the pole, with no foot pegs other visible appurtenances.

15. There shall be no exterior wiring, visible footpegs, portals, cabling or cable shrouds, or other unnatural appearing features on the monopole.
16. Ground equipment to be located within lease area and within an enclosed shelter as depicted on the preliminary development plan dated June 15, 2015.
17. All walls visible from a public right-of-way and/or adjacent to existing residential development are to be graffiti-resistant. Graffiti shall be removed from walls within seventy-two (72) hours of discovery or notification.
18. Installation of a backup generator requires evidence of compliance with the Tucson City Code, Section 16-31 Excessive Noise. The generator may be tested for up to 45 minutes per week, between the hours of 8:00 AM and 6:00 PM. Finish color and texture of all painted surfaces shall match existing surfaces of adjacent equipment enclosure. The generator shall include a fuel catchment feature designed to contain at least 210 gallons of fuel in the event of a leak.
19. Plans for future carriers must be approved through the special exception process.

Linus Kafka



Zoning Examiner

CC: Glenn Moyer, PDSD
John Beall, PDSD
Daniel Bursuck, PDSD
City of Tucson Mayor and Council